IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

WP(Crl.).No. 205 of 2007(S)

PETITIONER:
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1. ALAVIKKUTTI, S/O MOIDEENKUTTI,
AGED 42, VELLARAMPARAKKAL VEEDU,
MONGAM P.O., CHERUPUTHOOR,
MALAPPURAM DISTRICT.

2. JAMEELA, W/O ALAVIKUTTY,
AGED 35, -DO- -DO-.

BY ADV. SRI.J.DEVADANAM
SRI.VINOD J.DEV
SRI.PRAMOD J.DEV

RESPONDENTS:
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1. THE SUPERINTENDENT OF POLICE,
MALAPPURAM DISTRICT.

2. CIRCLE INSPECTOR OF POLICE,
MANCHERI.

3. SUB INSPECTOR OF POLICE,
MANCHERI.

4. KOOLIYODAN RAIHANATH,
D/O SAYED ALAVI, TOWN HILL COLLEGE KUNNU,
MANCHERI P.O., MANCHERI.

5. THE SECRETARY,
ETTINKHANA SCHOOL, MANCHERI.

R1 TO 3 BY SR. G.P. SRI.C.M.KAMMAPPU
R4 BY ADV. SRI.BABU S. NAIR
R5 BY ADV. SRI.K.P.MUJEEB

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 03/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

P1: TRUE COPY OF THE JUDGMENT IN WPC NO.18586/2006(K) DT.25.7.2006.

P2: TRUE COPY OF THE PETITION FILED BEFORE THE SUB INSPECTOR, MANCHERI DT.24.8.07.

P3: TRUE COPY OF THE PETITION FILED BEFORE R1 DT.31.8.2007.\

RESPONDENTS' EXHIBITS:

R4(a): TRUE COPY OF MEDICAL CERTIFICATE ISSUED BY DR.KHADEEJA UMMER DT.8.9.2007.

R5(a): TRUE COPY OF THE TRANSFER CERTIFICATE DT.13.9.2004 ISSUED BY THE HEADMASTER, PM SAMA UP SCHOOL.

R5(b): TRUE COPY OF ADMISSION FORM SEEKING ADMISSION TO 6TH STD. IN HMY HSS, MANJERI BY THE ALLEGED DETENU.

R5(c): TRUE COPY OF APPLICATION FOR ADMISSION TO 8TH STD. DT.20.7.2006.

R5(d): TRUE COPY OF CERTIFICATE DT.27.7.2006 ISSUED BY VILLAGE OFFICER, ERNAD TALUK.

TRUE COPY

PA TO JUDGE

P.R.RAMAN &
V.K.MOHANAN, JJ.

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W.P.(Crl.) No.205 of 2007

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Dated this the 3rd day of October, 2007.

JUDGMENT

Raman, J.

This is a Habeas Corpus petition filed by petitioners who are the parents of the alleged detenu Mansoor. The petitioners are Muslim by birth and it is claimed that they have embraced Christianity later and because of that, the community members were got infuriated and their minor child is being admitted with the 5th respondent. While the detenu was with the 4th respondent, the second petitioner's sister, he was admitted in the 5th respondent school as stated and thereafter according to the petitioners, they were not allowed to see the detenu or to have contact with him. It is stated that the petitioners being the natural guardian are entitled for the custody of the alleged detenu.

2. Pursuant to notice issued, parties appeared. The 4th respondent is stated to be sick and did not appear. The 5th respondent appeared. The alleged detenu is also produced. We have interacted with the parties. We are satisfied that the detenu cannot be said to be under illegal custody since

the child is admitted in the 5th respondent-institution by his grandfather. However, the petitioners who are the parents are entitled for the custody of their minor son Mansoor. Accordingly by interim order we gave the custody of the minor son to the petitioners and posted the case for further consideration.

3. The parties appeared today also. We have interacted with the parties. For the reasons already stated above, the arrangement will continue and the petitioners are allowed to take care of their child Mansoor. Since Mansoor was studying in the school while he was with the 5th respondent, the Transfer Certificate shall be issued by the 5th respondent and entrust the same to their counsel, who shall hand over the same to the counsel appearing for the petitioners. The boy shall be admitted in the school nearby to the residence of the petitioners and be given proper education. The Superintendent of Police, Malappuram District shall give necessary protection for peaceful stay of the detenu with the petitioners, his parents. The matter is closed.

P.R.RAMAN
Judge

V.K.MOHANAN
Judge

pms